Covered Companies

- **Section 16(a)** of 1934 Act defines "reporting companies" (or "covered companies") as:

  - any company whose securities are publicly traded on *any* exchange;

  - any company with either 500 or more shareholders who are not "accredited" or 2,000 or more shareholders **and** has $10 million of total assets;

  - or any company whose securities were subject to registration requirements (i.e., Form S-1 and statutory prospectus) under 1933 Securities Act.

Covered Company Reporting Requirements

- Covered companies must file certified financial statements with the SEC annually on Form 10-K and quarterly on Form 10-Q

- special events (such as merger or stock exchange) reported on Form 8-K

Section 16 of 1934 Securities Exchange Act

- **Section 16(a)** of 1934 Act defines any person who is an executive officer, a director, or a 10-percent shareholder of an equity security of a "reporting company" as a *statutory insider* for Section 16 purposes.

- Only applies to officers who have discretionary policy-making authority.

Statutory Insider Reporting Requirements

- Statutory insiders must file Form 3 with SEC within 10 days of becoming an insider disclosing stock ownership in the reporting company

- Thereafter, disclose all trading in company securities within 2 days of trade (on Form 4).

- purpose = disclose to the public what securities are bought and sold by insiders of the company.

Section 16(b)

- **Short-Swing Profits:** Profits made by "statutory insiders" on trades that occur within six months of each other.
  - look back and forward to match a buy with a sale or a sale with a buy
  - excludes transactions that occur before becoming an insider.
  - ignore exercise of stock option; match the *grant* of an option and sale of security
  - no defense: strict liability, knowledge = irrelevant

Section 16(b)

- Corporation may bring legal action to recover these short-swing profits.
  - irrelevant whether statutory insider traded on confidential inside information
  - applies in addition to Section 10(b) insider trading rule